

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

## **ORDER**

This action is before the Court on the motion to reinstate filed by plaintiff Branch Banking and Trust Company (doc. 54). Previously, defendants F. Rutherford Smith, Jr. and R & T Rentals, LLC, participated in a mediation and the mediator reported that the parties had reached a settlement but ninety (90) days were necessary to complete the settlement contingencies and prerequisites. At that time, the action was dismissed with prejudice as to Smith and R & T, subject to the right of either party to reinstate this action within ninety (90) days of the date of the order, September 16, 2011, should the settlement not be completed. (Doc. 50). Subsequent thereto, the action was stayed as to defendant C. Thurmon Bell because he had filed a Chapter 11 bankruptcy (Doc. 51).

Plaintiff now reports that the settlement agreement contingencies have not been completed and this action has not been resolved as to Smith and R & T. Plaintiff moves the Court to reinstate the action as to these defendants. The motion is timely having been filed within ninety (90) days of the date of the order.

Upon consideration, the motion is **GRANTED** and this action as to Smith and R & T is reinstated to the active docket of this Court.

Nothing herein shall be construed as lifting the stay as to defendant Bell and this action shall remain stayed as to him.

This action having been reinstated to the active docket of this Court, the Rule 16(b) Scheduling Order (doc. 43) is amended as follows:

**1. Final Pretrial Conference.** This action is set for final pretrial conference before United States District Judge Kristi DuBose on **Wednesday, February 29, 2012 at 10:30 a.m.** in Mobile, Alabama.

The **Joint Pretrial Document** required by the Order Governing Final Pretrial Conference shall be due on or before **Wednesday, February 22, 2012** (*see* doc. 43-1).

**2. Trial.** This action will be set for trial sometime during the month of **March 2012**, and the specific date shall be set once the total number of actions to be tried that month is determined. The parties estimate that this action will require two (2) trial days.

**8. Pretrial Disclosures.** The disclosure of information regarding the evidence that each party may present at trial as required by Fed. R. Civ. P. 26(a)(3) shall be made on or before **February 1, 2012.**

**DONE** and **ORDERED** this 20th day of December, 2011.

s / Kristi K DuBose  
**KRISTI K. DuBOSE**  
**UNITED STATES DISTRICT JUDGE**